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ABSTRACT

This issue of "Free Speech" contains the following articles: "Daniel Schoor Relieved of Reporting Duties" by Laurence Stern, "The Sellout at CBS" by Michael Harrington, "Defending Dan Schorr" by Tome Wicker, "Speech to the Washington Press Club, February 25, 1976" by Daniel Schorr, "Funds Voted For Schorr Inquiry" by Richard Lyons, "Erosion of the First Amendment: Freedom of Speech and the Nixon Court" by Peter Kane, and "Pretrial 'Gag' Seen Justified at Times" by John MacKenzie. This issue also includes announcements from the Freedom of Speech Commission. (TS)

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Free Speech

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COMMISSION ON FREEDOM OF SPEECH
SPEECH COMMUNICATION ASSOCIATION

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CONCLUDING COMMENTS

With this issue of *FREE SPEECH* I conclude my three year term as Editor. Effective immediately all editorial matters should be addressed to the new Editor, Professor Ruth McGaffey, Department of Communication, University of Wisconsin-Milwaukee, Milwaukee, Wisconsin 53201. This is the time and place to thank those who helped produce the last nine issues of FS. In particular I am compelled to acknowledge my debt to my Editorial Assistant, Ms. Linda Vader. I do not know how the job could have been done without her. Thanks also goes to the Speech Communication Association national office staff for their timely and efficient production and distribution of this newsletter often making up for deadlines that the Editor missed. Elsewhere in this issue I have taken the opportunity to reflect on the trends in freedom of speech during the last three years and to speculate about the future. It is my sorrowful conclusion that Professor McGaffey will have much bad news to report.

NATIONAL SECURITY AND AN INFORMED ELECTORATE

The basic promise of democracy that informed decisions are made by all the people has again been put to the test in the name of national security. One of the many results of the Watergate revelations was the discovery that various government police and intelligence organizations had performed incompetently and/or illegally. In order to discover the real extent of the problem the House of Representatives established a Select Committee on Intelligence which studied the functioning of the Central Intelligence Committee. From time to time information uncovered by this committee was released to the public revealing that the C.I.A. had indeed undertaken a number of illegal and irresponsible acts. The Select Committee compiled an over 300 page report on their findings (most of the significant findings had previously been made public). The C.I.A., seeking to avoid further embarrassment, wanted the report kept secret. Using the occasion of the murder of a C.I.A. agent in Greece, the C.I.A. mounted a major media campaign to persuade the public and its elected representatives

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NATIONAL CITIZENS COMMITTEE FOR BROADCASTING

A new organization, the National Citizens Committee for Broadcasting, headed by former FCC Commissioner Nicholas Johnson is attempting to secure support for a proposal to expand public access to the airways. Their proposal, printed below with a full list of endorsements to date, runs counter to the arguments of Senator William Proxmire and others for the deregulation of broadcasting. The NCCB has indicated that it will have special materials for FS at a future date and will be seeking endorsement for its proposal from the Freedom of Speech Commission and the Speech Communication Association. Mailing Address for the NCCB is 1346 Connecticut Ave., N.W., Suite 415, Washington, D.C. 20036.

TO AWAKEN A NATION:
A MODEST PROPOSAL FOR PUBLIC AFFAIRS PROGRAMMING ON TELEVISION

We are proposing that U.S. television stations must devote no less than one hour of prime time to public affairs programming every week? Why?

During the average evening, 100 million people may be

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"National Security"

that publication of the report would harm national security. It should be noted that this domestic operation constituted another violation of the laws under which the C.I.A. is supposed to operate. Even though the major findings of the report had already been made public, the House of Representatives decided that an informed electorate was not important and voted 246 to 124 to suppress the report.

Although the House voted not to publish the report, at least one copy was in private hands. C.B.S. newsman Danial Schorr, late of the Nixon enemies list, had received a copy of the report. Realizing that his copy was perhaps the only one in private hands, Schorr sought advice from the Reporters' Committee for Freedom of the Press. On the basis of that advice, Schorr began to seek a publisher for the work. The usual paperback book publishers were for whatever reason not interested. Finally the only outlet he was able to find was The Village Voice, *a New York City weekly newspaper, which printed the report in special supplements to the regular weekly papers.*

The publication of the report proved what the critics of its suppression had claimed: the publication was not a threat to National Security but was an embarrassing revelation for the C.I.A. Nevertheless, the publication has created a controversy which has led to the suspension of Schorr from C.B.S. and the start of a full scale investigation to discover how Schorr came into possession of a copy of the report. These events and comments upon them follow:

Schorr Relieved of Reporting Duties
by Laurence Stern

CBS News relieved correspondent Daniel Schorr of all reporting duties yesterday as the result of his acknowledged role in the sale of the House Intelligence Committee report to the New York weekly, The Village Voice. The Reporters Committee for Freedom of the Press was the beneficiary of the sale.

"In view of the adversary situation in which Dan Schorr is placed in pending government investigations, he has agreed with CBS News that he will be relieved of all reporting duties for an indefinite period," CBS News president Richard S. Salant announced yesterday.

Speaking for himself, Schorr said that the overriding issue in his case "beyond the specific details of my action is the public's continued right to know in the face of a secrecy backlash."

"Experience," he said, "has quickly taught that it is not possible to work as a reporter while personally involved in a controversy over reporters' rights, and I accept that reality," Schorr also asserted in his statement, which was distributed by CBS.

The Washington Post, February 24, 1976, p. A2.

* * * * * *

HOUSE MOVE AGAINST SCHORR RAISES FREE PRESS ISSUE
by Martin Arnold

A demand was made in the House of Representatives yesterday that the Congressional press credentials of a television news reporter be revoked because he leaked a secret Congressional report to The Village Voice.

At the same time, the Justice Department was studying whether the reporter, Daniel Schorr of CBS News, his news source and The Village Voice had violated Federal espionage law in leaking the report, on the ground that the leak allegedly compromised American intelligence message codes.

If the House conducts a full investigation it will be the first formal investigation of a reporter in more than 100 years.

If the Justice Department decides to prosecute it will raise again many of the issues, including First Amendment issues, that were raised in the case of Daniel Ellsberg and the Pentagon papers.

Whatever happens legally, the case has already raised some ethical questions for the press.

Mr. Schorr has acknowledged that he provided the Congressional report to The Village Voice. In its Feb. 16 issue The Voice printed a 24-page supplement of excerpts from the report entitled, "The Report On The C.I.A. That President Ford Doesn't Want You To Read." In its Feb. 23 issue The Voice printed a special 10-page section headed, "How Ford, Kissinger and the C.I.A. Obstructed the House Probe."

On Jan. 30, the House had voted to ban publication of the report until it had been censored of information in it that was still classified. Mr. Schorr obtained a copy of the report and used information from it in reporting for CBS-TV and radio.

When the House voted to keep the report secret, Mr. Schorr, has said, he realized that he might have the only copy of it outside the Government. "I could not be the one responsible for suppressing the report," he said, in explaining why he made it available to The Voice.

Yesterday, Representative William F. Walsh, Republican of New York, asked that Mr. Schorr's Congressional press credentials be revoked for what he called the reporter's "contemptible act" in leaking the report. Without such credentials Mr. Schorr would be unable to cover Congress from the press galleries because of an action that some legal experts feel would in itself be in violation of the First Amendment guaranteeing freedom of the press.

The New York Times, February 21, 1976, p. 9.

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THE SELLOUT AT CBS
by Hon. Michael Harrington

Mr. Harrington. Mr. Speaker, the Central Intelligence Agency appears to be scoring a major victory in its area of

(*Continued on p. 3*)

prime expertise--the manipulation of opinion and events by skillful use of the mass media. What is remarkable is that this public relations coup is occurring not in some obscure banana republic but here in the United States, where a vigorous free press has historically prided itself on its resistance to Government pressure. A year that began with sensational exposes of intelligence agency abuses has ended with editorial outcries against congressional "security leaks" and with a major news organization suspending one of its finest reporters for taking the first amendment too seriously.

That Daniel Schorr has become the target of a witch-hunting House of Representatives is certainly no great suprise. This Chamber has shown its colors clearly enough in its decades of kowtowing to national security bureaucrats. What is harder to fathom or forgive is the equally shabby treatment of Mr. Schorr at the hands of his own CBS. With the network's news chief Richard Salant ducking and running in this fashion, we have the clearest signal yet that the journalistic retreat which began with the flacking of the Welch assassination has now gone into full swing.

In an excellent article in the New York Times of February 24, Tom Wicker discusses the Schorr episode with a welcome respect for the facts. I am inserting his observations in the RECORD at this point in the hope that some of my colleagues will renew the effort to shift the intelligence debate back to where it belongs--to questioning the activities of the CIA:

DEFENDING DAN SCHORR

(By Tom Wicker)

In suspending Daniel Schorr from his reporting duties, CBS News has succumbed to a campaign launched within the Ford Administration to picture the Central Intelligence Agency as an erring but basically worthy victim of those who leak its vital secrets and reporters who print them.

Mr. Schorr has conceded that he made a copy of the House Intelligence Committee's report available for publication in The Village Voice, a New York weekly. The charge against him is that he "sold" a document that not only disclosed national security information but which the House of REpresentatives had voted not to publish. The "selling" charge arises from Mr. Schorr's suggestion that The Voice make a contribution to the Reporters' Committee for Freedom of the Press.

Anyone who knows Daniel Schorr knows also that it is absurd to suggest that he sought to profit materially from publication of the House committee report. The facts are that Mr. Schorr did not suggest payment for himself, but to a cause he considered worthy. He first determined, as a CBS reporter, that the broadcast possibilities of the report had been exhausted. When the possibility of book publication fell through, Clay Felker, publisher of The Voice, offered to print the report.

"I had then to consider," Mr. Schorr wrote the editors of The New York Times, "since taking money was unthinkable to me, whether Felker should be the sole beneficiary. If our system inevitably creates profits, should Felker enjoy them exclusively? So, I suggested it would be appropriate for him to make some gesture to the free press idea which had animated me by a "voluntary" contribution to the Reporters' Committee." In fact, the arrangement was so "voluntary" that the contribution has not been made.

This arrangement may well have been an error of judgment. But Mr. Schorr deserves to have acknowledged that there was no "sale" of the committee report nor any arrangement designed for his personal enrichment, or that of anyone; and that he at least thought he was precluding a "profit" even for The Village Voice.

The other major question concerning publication of the committee report is whether Mr. Schorr should have turned it over to The Voice in any circumstances. Did not the House vote to keep it secret? Has not George Bush, the new C.I.A. director, said publication damaged national security?

In fact, Mr. Bush took refuge in the ancient governmental dodge of saying, in effect, "if you only knew what I knew . . . but of course I can't tell you what I know." When the Government made the charge about publication of the Pentagon Papers in 1971 that the national security had been damaged in ways it could not publicly discuss, Federal Judge Murray Gurfein was unable in a secret session to elicit from Government witnesses a single specific instance of actual damage to the national security.

This history, of course, proves nothing about the committee report except that statements like Mr. Bush's should be regarded with much skepticism--particularly since (a) most of the repor's major points had previously been published, so that at worse any security damage already had been done; (b) other reasonably knowledgeable persons, including the House committee and its staff, believed that, as Mr. Schorr said, it contained "nothing more of national security significance, certainly nothing that would endanger any individual."

Besides, Mr. Bush himself, appearing on "Meet the Press," conceded that "the fundamental question is that Congress voted by almost two-to-one that the report not be made public, and it was made public . . . that's just plain wrong." This is the basic charge against Mr. Schorr, but it is George Bush who is just plain wrong.

How is it different for the House to vote to suppress a public document than for a President to suppress it? If President Ford, for example, had decided not to make public the report of the Rockefeller Commission he appointed to study C.I.A. abuses, would that have made it "just plain wrong" for a good reporter like Dan Schorr to get hold of it

(Continued on p. 4)

and put it on the public record?

Of course not, for to say so would be to say that either a President alone or the House by majority vote can decide what a free press may or may not publish. In the Pentagon Papers case, the Supreme Court specifically ruled against any such doctrine--contravening, as it would, the First Amendment--although it left open the possibility that some narrowly specified matters might be of such immense and immediate security importance as to warrant "prior restraint."

No one has suggested that the House committee report is even remotely such a matter; and after a year-long investigation conducted at public expense, it was in fact a document that belonged where Dan Schorr put it--on the public record.

Congressional Record, February 26, 1976, pp. E 902-903.

* * * * *

SPEECH TO THE WASHINGTON PRESS CLUB, FEBRUARY 25, 1976
by Daniel Schorr

From the events of the past couple of weeks, let me report my preliminary conclusion: the joys of martyrdom are considerably over-rated.

As a non-working reporter, I have been working longer hours than usual, making the necessary legal and other preparations to be a cause celebre. I am tired, I don't have much time with my family, and I'm getting to feel very self-conscious. For me, the world has turned upside down when people keep calling me up to ask me things instead of telling me things.

There is another disagreeable feature of being a cause celebre. To be involved in a great Free Press contest, it seems, one has to start by surrendering some Free Speech. My lawyer, Joe Califano, is master-minding our strategy. And he says that a central feature of his strategy is that I should shut up a lot.

We have worked out this novel system where I write down what I would like to say, and then Joe reads it, and then he tells me if I'm allowed to say it. The system is having its try-out here. Not to beat about the bush, this is my first censored script since I left Moscow eighteen years ago.

Since I've never liked writing for the waste-basket, there are somethings I won't try to go into because they are kind of sub judice. I cannot talk about the specific facts of the situation that faces official scrutiny--the tangled web woven in an effort to see a text published without commercial taint or personal gain once broadcast requirements had been fulfilled. This will all come out at the proper time, and I'll be glad, for, while not particularly proud of my effectiveness at undercover operations, I'm not ashamed of my intentions.

You may fairly ask, then, what am I going to talk about. Well, I like to think of myself as not just a cause, but still a reporter. And since I do not, these days, broadcast analysis, let me share with you my overall analysis of what I think is going on beyond the peripheral matters.

It is remarkable how much the national climate about secrets has changed in the past few months. In the early post-Watergate period, Americans demanded to know what other secret abuses of power had taken place. Disclosure turned into an imperative, overshadowing secrecy. "National interest" had lost some of its luster after being dragged into Watergate. And "national security" had become tarnished by its employment as a reason to block the investigation of a break-in, or to continue wiretapping someone who had left Government employ months before.

In the post-Watergate era, leaks became routine, and secrets were hard to keep. Who could accept the standards for secrecy if they were being set by those with their own secrets to keep? Who could believe in national security once it had been made synonymous with cover-up? In a reaction to improper concealment, we seemed to enter a period of massive, almost compulsive disclosure.

One phase of disclosure opened around October, 1974, when Seymour Hersh of the New York Times, doing what the Washington Post had done in the earlier Watergate period, forced ajar the closet where some CIA skeletons were locked away. There were muttered protests about intelligence secrets being spilled, but they fell mostly on deaf ears. Congress demanded investigations and so did President Ford. It was what the time seemed to require.

And so, not from leaks, but from official reports of the Rockefeller Commission and Congress, we learned of improper CIA spying on American dissidents, improper FBI provocations, mail-opening and eavesdropping by both these agencies, and more massive electronic surveillance by an agency few had even heard of until then--the National Security Agency. We learned of Americans used as unsuspecting guinea-pigs in LSD experiments, and of exotic poisons squirreled away against Presidential orders. We learned of plots against foreign governments, and we learned of plots--sometimes in unholy alliance with organized crime--against the lives of some foreign leaders.

But, everything runs its course and, in the Media age of the national nightly news seance, it runs its course faster than ever.

There have always been, in our country, two great urges--one towards security, one towards liberty. The pendulum constantly swings between them. When Americans fell threatened in their safety, they sometimes seem willing to sacrifice a little liberty. Then they talk of "cracking down," of giving freer rein to investigative agencies, and approve these agencies operating with greater secrecy.

(*Continued on p. 5*)

But, when Americans perceive their freedoms, their privacy, threatened by security agencies, they turn on them, and demand to have them exposed and brought under control. That has recently been happening. Americans, shocked at what has been done in the name of national security and internal security, have been tilting towards disclosure, and our security establishment asserts that it has been harmed.

But security always comes back. And the pendulum appears to have started its return course, helped along by some willing hands. One clear sign of the change could be spotted, at the turn of the year, when a CIA station chief in Athens was tragically murdered, and suddenly disclosure in the broadest sense was made to appear the culprit. Another sign appeared on the horizon when a member of Congress found it necessary to call a news conference to protest that he had not been the source of a leak on the CIA operation in Angola.

Soon we were hearing echoes of 1971 when the Government was claiming--but never proving, even behind closed doors--that the Pentagon Papers had compromised national security.

The answer then was the White House Plumbers. The answer now seems to be pressure against Congress, and particularly against the Press. And, as a further election-year future, against Congress to mount its own campaign against the press.

So, what happened to me? I got hit by a swinging pendulum.

In October, 1974, I was assigned to start investigating intelligence agencies. In February, 1976, they seem to be back investigating me.

In October 1974, the nation seemed to want exposure of intelligence scandals. In February, 1976, the biggest scandal is being made to appear the process of exposure.

That was the background for the lopsided vote in the House of Representatives on January 29th to block the report already approved by its intelligence committee. The substance of the report had already been leaked, but using it after the vote was not the same as using it before. January 29th, if I may put it that way, was a watershed for leaks.

The House, as the saying goes, had worked its will, a phrase that has always awed me. But worked its will on whom? The House has a vital constitutional role. We know it as the body traditionally most sensitive to changes in voter sentiment. And, as much, the House made up its mind about this report.

But, under our Constitution, the Press marches to a different drummer, representing no popular constituency, and sometimes obliged to provide unpopular information. Now; I'm not supposed to discuss my case, but let me see if I can present to you the problem of a hypothetical reporter.

Take a reporter who has gotten a report with the simple hope of being a few days ahead of its scheduled publication. Now, suddenly, he sees all other copies of that report locked up in the clerk's safe and--perhaps even more securely--entangled in a parliamentary deadlock about how to get it out of the safe.

In this wierdly accidental situation that has befallen, would you say that it is the function of the reporter to case what, in effect, would be the final decisive vote for suppression of the report?

Is it the function of the reporter to heed a national security dictate than his common sense--but, more importantly, the parent committee and its expert staff--consider as not valid?

And, finally, if the House appears to be moving, for whatever reasons and under whatever pressures, towards putting the lid back on secrets, is it the function of the reporter to exercise his own prior restraint and to join the secrecy backlash that will hinder the press in the future?

Under the circumstances--unique though these circumstances may have been--it seemed to one reporter that, paradoxically, to NOT publish would have been an act of contempt for the constitutional process. To publish--and it makes no difference where--was the recognition of our separate roles, the normal and natural thing to do. For, if a body of Congress can, in these peculiar circumstances, forbid publication of information that has already escaped its control, then what can it not forbid? And what can it not ordain?

I submit to you that this is not contempt, but a proper respect for the function of Congress in our society, along with what I hope is a proper respect for what the journalist does in society. And apparently that role is now--once again--to be tested.

I do not ask you to approve of how I went about doing what I tried to do--my own agonized critique indicates some possible improvements in the tactics.

I would suggest that if you concentrate too much on these details, however fascinating, you may miss the main action. These fascinating details can sometimes be used to obscure a constitutional threat.

What the Government can do to any journalist, it can do to all journalists.

When you hear the whip, send not to know for whom this backlash cracks. It cracks for you.

Congressional Record, March 2, 1975, pp. E 993-994.

* * * * *

FUNDS VOTED FOR SCHORR INQUIRY

by Richard D. Lyons

(*Continued on p. 6*)

The House overwhelmingly voted today funds for its investigation into the unauthorized publishing of the House Intelligence Committee report in The Village Voice, rejecting protests by liberal members that the inquiry would spread to disclosures about the document by other news organizations.

The vote was 278 to 87 and was the fourth consecutive defeat on the House floor for liberals who had sought to curtail or abolish the investigation. As a result, the House Ethics Committee, which had been ordered by the members to under $150,000 in special investigative money over and above the $1 million in regular operating funds it already had . . .

Representative John J. Flynt, the Georgia Democrat who is chairman of the ethics committee, said that he expected his investigators would start this week to question persons familiar with the report, and that they might include C.I.A. personnel . . .

The possibility that the scope of the investigation would go beyond Mr. Schorr and The Village Voice drew the attention of half a dozen liberal Democrats in the debate on the fund request on the House floor.

Representative Bella S. Abzug, Democrat of Manhattan, said "the press has become the issue" because "nothing in the report is secret."

"Why are we conducting this witch hunt?" she said. "We do not know where it will stop--The New York Times, The Washington Post, Time magazine, NBC, ABC and PBS had full and complete reports of the Pike report--Are all these organizations to be investigated?"

Mrs. Abzug added that the results of the investigation "can only result in holding these members of the press in contempt."

Representative Elizabeth Holtzman, Democrat of Brooklyn, said the investigation would have "a chilling effect on future reporting of governmental activities."

Representative Edward I. Koch, Democrat of Manhattan, said, "To call a newsman to task for doing his job will bring the House into desrepute--this is not this house's finest hour."

The New York Times, March 30, 1976, p. 9.

* * * * *

NATIONAL PRESS CLUB CONDEMNS SCHORR INQUIRY

Hon. Richard Ottinger

Mr. Ottinger. Mr. Speaker, 3 weeks ago the House enacted a resolution which was inadequately considered and threatens certain basic rights guaranteed by the Constitution, particularly freedom of the press. I refer, of course, to the Stratton resolution, calling upon the Committee on Standards of Official Conduct to conduct an inquiry into the circumstances surrounding the public dissemination of a classified report of the former Select Intelligence Committee.

The clear consequence of this resolution was to discredit a member of the working press; namely, Mr. Daniel Schorr. The resolution, threatening him with contempt of Congress and removal of his press credentials to the House gallery, will have the unconstitutional effect of congressional sanction for publication of material it wishes to suppress.

As I have previously observed, CBS News caved-in to the intimidation which this resolution generated and Mr. Schorr has been suspended from his job. Surely, other representatives of the media will feel threatened or intimidated in the future from risking similar congressional sanction.

Earlier this month the National Press Club---one of the Nation's most distinguished group of journalists--by a unanimous vote of its Board of Governors, condemned the House for its actions insofar as they were directed against the press and Mr. Schorr. The officers of the National Press Club aptly noted in a recent letter to the Speaker advising him of their vote, that this organization "considers this action to have a chilling effect on the constitutional guarantee of freedom of the press."

I insert the full text of the National Press Club's letter in the RECORD and commend it to the attention of our colleagues. I believe we would do well to pay heed the concerns expressed:

March 9, 1976.

Hon. Carl Albert,
The Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The National Press Club, by a unanimous vote of its Board of Governors, condemns the action of the House of Representatives on February 19 in singling out a reporter in its investigation of a leaked document.

The National Press Club considers this action to have a chilling effect on the Constitutional guarantee of Freedom of the Press.

There is no intent on the part of the National Press Club to defend or condemn the actions of Daniel Schorr of CBS, the reporter involved.

The issue of concern is the threat of action against any reporter, particularly by a House ethics panel--the Committee on Standards of Official Conduct--which so far has never formally investigated any House member or employee.

In view of this, we consider the investigation potentially to be a witch hunt against one reporter.

Sincerely, Robert Ames Alden, President
Linda S. Vance, Chairwoman,
Board of Governors.
Seth Kantor, Chairman,
Professional Issues Committee

Congressional Record, March 11, 1976, p. H 1886.

EROSION OF THE FIRST AMENDMENT: FREEDOM OF SPEECH AND THE NIXON COURT

by Peter E. Kane

The lasting legacy of the totally discredited and disgraced Nixon administration is the present make-up of the Supreme Court. Since Justices Powell and Rehnquist have been participating in the decisions of the Court, a number of freedom of speech cases have been considered. Almost without exception these cases have been decided in a manner that restricts and reduces the protection of the First Amendment. This process has been carried out with little regard for established legal doctrines and precedents. Too often the court in disarray has produced multiple opinions so that the grounds for decision in a particular case are unclear. And too often the opinions themselves are opaque and logically inadequate reflecting at best extremely sloppy legal scholarship. Theone clear fact is that freedom of expression loses.

The source of difficulty with these recent opinions in the First Amendment area may be the conservative ideology of members of the Court that is inconsistent with the First Amendment positions taken by prior Courts. However, conservative legal ideology would also call for the support of established precedent. This dilemma produces tortuous opinions that try to claim to support precedent while in fact making radical changes. In the absence of any consistent legal doctrine, the impression is that cases are decidedly individually on some ideological grounds and that the opinions attached to the decision are simply attempts to offer some grounds for the decision. The process seems very much like the verdict first and trial afterward procedure of the Queen of Hearts in Alice in Wonderland. An examination of recent cases and opinions in a number of First Amendment areas will illustrate the problem.

Obscenity

Twenty years ago in *Roth* the Court made an effort to distinguish between protected and unprotected erotic material. The now familiar test first fully stated in *Jacobellis* identified the unprotected material as that which was offensive to contemporary general community standards, appealed to purient interest in sex, and was utterly without redeeming social value. With the exception of *Ginzberg* this test was consistently applied to obscenity cases. The problem with the test was that in borderline cases it was vague and in any event required the Court to make its own judgment about the obscenity of the material in question.

In order to study the whole question of obscenity and formulate policy, President Johnson appointed a commission composed of members without any particular ideology on the question. President Nixon added members with clear suppression ideologies to the commission. The Commission's report concluded that government had no legitimate interest in prohibiting sale or exhibition of any kind of erotic material to consenting adults. Government did, however, have a legitimate interest in regulating the conditions of sale or exhibition and in the shielding of minors from erotic material. These recommendations were supported by volumes of detailed research evidence.

The first attempt to deal with obscenity by the Nixon Court was the *Miller* case. The majority opinion in *Miller* tried to give the appearance of following the *Roth* doctrine. The basic test is there but in a substantially altered form. Community standards are now local community standards, and the utterly without redeeming social value test has been replaced with the idea of lacking serious artistic merit. The majority opinion attempts to conceal this substantial change by trying to argue that the utterly without redeeming social value test had not been the test used since *Jacobellis*. A final extremely significant change made the question of obscenity a matter of fact for the trial jury to decide rather than a question of law for ultimate decision by the Supreme Court. It is interesting to note that Justice Brennen, the author and refiner of the *Roth* test, in a dissenting opinion in a case decided at the same time as *Miller*, finally rejects the *Roth* test as unworkable and adopts the position of the President's Commission on Obscenity and Pornography.

A year after this substantial reduction in the First Amendment protection for erotic material, the Court faced two additional obscenity cases. In the first the *Miller* rule had been violated by the trial court judge who refused to allow evidence about local community standards. In the second local community standards were used by a jury to decide as a matter of fact that the film Carnal Knowledge was obscene. The logic of *Miller* would seem clearly to dictate the position of the Court in these two cases. Nevertheless, the Court majority chose to uphold conviction in the first case and reverse in the second. The majority opinions in these two cases attempting to deny the conflict and inconsistancy make no sense at all. One is almost compelled to conclude that the Justices must have reached their decisions on personal and/or ideological grounds since no logical legal reasons are offered for the majority's decision.

In sum the area of obscenity illustrates the two basic trends of the Nixon Court in regard to the First Amendment. First, the protection of the First Amendment has been substantially reduced. Second, the Court is reaching decisions on a case by case basis using a very conservative

ideology while disregarding established legal doctrines and precedents in an extremely radical manner.

Libel

A second First Amendment area in which the Nixon Court has been active is that of libel. In the famous *Times v. Sullivan* case in 1964 the Court had ruled that a public official could not recover damages for defamation unless malice were proven. This concept was expanded to all public persons in *Curtis Publishing v. Butts* in 1967 and to any discussion of public issues without regard to the status of the person defamed in *Rosenbloom v. Metromedia* in 1971. The basic trend of these cases had been to expand the area of protection of the First Amendment by reducing the grounds for successful legal action for defamation.

In 1974 the Nixon Court reversed this trend in *Gertz v. Welch*. The concept of discussion of public issues used in *Rosenbloom* is set aside in the majority opinion written by Justice Powell. In this clear and logical opinion (an exception to the general pattern) Justice Powell attempts to move away from a case by case approach and formulate a general theory of libel and the First Amendment. He argues that public officials and other public persons have voluntarily surrendered personal privacy and may invite defamation. Furthermore, their access to the public provides an effective means for defending themselves against defamation. Therefore, unless malace can be proven, a public official or other public person cannot be awarded damages for defamation. Powell goes on to discuss the concept of damages. Damage awards should be limited to actual injury. Both presumed damages and punitive damages (except where actual malice has been proven) invite juries to punish unpopular views through large awards. Thus, Justice Powell clearly defines the type of person who can seek a defamation award in the absence of a showing of malice and the reasons for that definition. He also clearly defines the possible types of damage awards and the circumstances of their applicability.

Even though the scope of First Amendment protection had been reduced by *Gertz*, the basic theory of libel and judgments for defamation appeared clearly established. That expectation has been shattered by the recent *Time v. Firestone* decision (44 LW 4262, March 2, 1976). While returning the award of $100,000 to the state court for further consideration on technical grounds, the majority opinion upheld the defamation judgment against *Time* magazine even though the evidence proved that Mary Firestone was voluntarily a public person, that there had been no malice in the defamation, and that the factual error was marginal at best. Incredibly four of the five justices who had joined in the *Gertz* majority opinion also joined in the *Time v. Firestone* majority opinion even though the two opinions are clearly inconsistant with one another. Here again one finds an absence of any logical legal reasons for these opposing results and is forced to conclude that the Court's majority, having decided on some personal and/or ideological grounds to punish *Time* magazine, accepts Justice Rehnquist's web of rationalizations as the best possible arguments that can be made in this case.

Thus in the area of libel one finds the same pattern that was evident in the area of obscenity. First, the protection of the First Amendment has been reduced although the full extent of that reduction is not clear now. In any event the Court has withdrawn from the protection provided in *Rosenbloom*. Second, the Court is here again reaching decisions on a case by case basis with perhaps other than legal considerations involved even though the majority opinion in *Gertz* was clearly saying otherwise.

Picketing

One hundred years ago in *Munn v. Illinois* the Supreme Court noted that

> Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created.

This concept of the "public" quality of private property when used for a public purpose has been recognized in a wide variety of cases since 1876. For example, seventy years after *Munn* in 1946 the court ruled in *Marsh v. Alabama* that a privately owned company town was subject to the same restrictions and controls that would apply to a publicly owned municipality. One of those restrictions in the area of freedom of expression has been that people cannot be prohibited from using the public areas of a community for First Amendment activities (see *Hague v. C.I.O.*, 1939).

In the continued application of these long standing basic constitutional concepts the Court in 1968 in *Amalgamated Food Employees v. Logan Valley Plaza* ruled that the First Amendment guaranteed employees the right to picket in front of the store they were striking even though that store was located within a privately owned shopping plaza. However, four years later the majority opinion in *Lloyd Corp. v. Tanner* departed to some extent from this established constitutional doctrine by ruling that an

enclosed shopping center owner could legally prohibit anti-Vietnam war protesters from leafletting within the center. The Court's majority in *Lloyd* explained the apparent inconsistency with the ruling in *Logan Valley* by noting the factual differences between the two cases. Unlike *Logan Valley*, the First Amendment activity involved in *Lloyd* was not related to the commercial purposes of the shopping center. Thus, even though *Lloyd* represented a substantial reduction of First Amendment rights and was contrary to nearly one hundred years of legal precedent, the ruling appeared to be limited to the specific factual situation of that case.

The expectations about the limited nature of *Lloyd* has proven to be false. In *Scott Hudgens v. National Labor Relations Board* (44 LW 4281) decided on March 3, 1976, the Court majority explicitly reversed the precedent of *Logan Valley* and expanded the First Amendment restrictions of *Lloyd*. In this case Hudgens had been found guilty of an unfair labor practice based on Sections 7 and 8 of the National Labor Relations Act for his attempt to prevent striking workers from picketing in front of a store in Hudgens' enclosed shopping mall. The majority opinion in this case does not fit the pattern of the other First Amendment cases discussed previously in that the reversal of precedent is admitted. However, the opinion argues that the reversal of *Logan Valley* had in effect taken place with *Lloyd* and that all the Court was not doing was clarifying the matter. The majority opinion tortuously tries to distinguish between a shopping plaza and the company town in *Marsh* while ignoring the implications for the hundred years of decisions dealing with the public usage of private property.

What makes this decision particulary frightening is that the First Amendment question that the Court decided was not the issue before the Court. The appeal to the Supreme Court dealt with a statutory matter, specifically the finding of an unfair labor practice by the N.L.R.B. which had been upheld by the Fifth Circuit Court of Appeals. However, the Court majority chose to ignore the statutory question to deal with the constitutional issue that had only been raised as a secondary question in some of the briefs submitted to the Supreme Court. Such a procedure is certainly not in keeping with conservative jurisprudential processes. Rather it suggests a radical activist Court that is indifferent if not outrightly hostile to First Amendment rights.

Once more in this area, the Nixon Court has substantially reduced the scope of the First Amendment. The Court has done so by overturning established precedents. Furthermore, in the *Hudgens* case the Court has even demonstrated a disregard for the established and conservative principles of jurisprudence that would dictate the avoidance of a constitutional decision when statutory grounds for a decision are available.

Conclusion

This examination of recent decisions by the Nixon Court in the areas of obscenity, libel, and picketing has revealed some basic patterns and trends. When given the opportunity this Court will consistently reduce the scope of freedom of expression protected by the First Amendment. The extent of the antipathy of the Court majority toward First Amendment rights is reflected in one case in which they went out of their way to make a negative constitutional ruling that was totally unnecessary to the issue at hand. Rather than any balancing doctrine of the preferred position for the First Amendment, this Court seems to be developing a balancing doctrine of the rejected position.

A second characteristic of the First Amendment opinions considered here is their lack of clarity and legal logic. The court majority's positions are inconsistent from case to case suggesting that the Justices are arriving at their judgments on some personal basis without reference to legal principle. Even when the Court clearly states a general legal principle as it did in the area of libel, it does not follow that principle in subsequent cases. One is tempted to conclude that the majority Justices have different personal feelings about the two defendants, *Time* and *American Opinion* magazines, which shaped their decisions in these two cases.

Given the First Amendment decisions of the Nixon Court to date, it is hard to speak with either clarity or hopefulness about the future. As a general principle it might be a wise course not to place a First Amendment issue before the Court because a negative ruling is almost assured. Since the Court has been willing to attack the First Amendment even when it is not an issue before the court, avoidance may not be adequate to protect freedom of expression. Reversal of the current trend and the restoration of some sense of legal principle would seem to wait upon death, retirement, or impeachment. Until then one might expect an era matching the worst days of the Chase and Fuller Courts.

POLITICAL SPEECHES BANNED

With Justices Brennan and Marshall dissenting, the Supreme Court ruled 6 to 2 that military posts may constitutionally ban speeches and demonstrations of a "partisan" political nature and may prohibit the distribution of literature without prior approval by post headquarters. The case (Greer v. Spock) involved an attempt by Benjamin Spock and others to campaign at Fort Dix, N.J. The majority said that the the business of a military post is "to train soldiers not to provide a political forum."

"Proposal for Public Affairs Programming"

watching television. Thirty-one percent of all Americans consider television their exclusive source of news, and 60% their prime source. The average television set is running more than six hours a day.

The contribution that television could make to an informed electorate is immense. Yet very little has been done to impel broadcasters to provide even minimal "public affairs" programming.

The Need

Because Congress and the FCC won't act, the time has come for citizens to create their own "public interest standard" and take it directly to their local broadcasters.

It is not surprising that the Supreme Court has stated that the right of the public to be informed is inseparably tied to the First Amendment right to free expression.

> Public debate must not only be unfettered, it must also be informed. For that reason the Court has repeatedly stated that First Amendment concerns encompass the receipt of information and ideas as well as the right of free expression. Saxbe vs. Washington Post Co., 417 U.S. 843, 862-3 (1974).

The F.C.C. has adopted the Court's standard in its Fairness Doctrine. The Commission says that a licensee must provide time for the discussion of controversial issues of public importance, and that a reasonable opportunity must be made for the airing of all points of view. But the much debated obligation to air a diversity of viewpoints becomes academic if time is not made available for controversial issue programming in the first place.

In its 1949 Report on Editorializing, the F.C.C. said:

> It is axiomatic that one of the most vital questions of mass communication in a democracy is the development of an informed public opinion through the public dissemination of news and ideas concerning the vital issues of the day . . . (T)he paramount right of the public in a free society (is) the right to be informed . . . . It is the right of the public to be informed, rather than any right of the Government, any broadcast licensee or any individual member of the public to broadcast his own particular views on any matter, which is the foundation stone of the American system of broadcasting.

The "vital issues of the day" are generally dealt with in what is called public affairs programming.

A Definition

The F.C.C. has defined public affairs programs to include commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs which deal with topics of concern to the general public which are local, state, national or international in scope.

While "news" is considered to be an informative presentation of current facts, public affairs deals with all sides of an issue, discusses a problem, and presents possible solutions.

In order to encourage broadcasters to utilize their medium for the public interest, we propose an increase in public affairs programming in prime time (6:00 p.m. to 11:00 p.m. E.S.T.). This is the time when the greatest number of people are watching television.

The FCC: Support But No Action

The F.C.C. has, from its earliest days, referred to the obligation of broadcasters to provide a minimal amount of public affairs programming, even though it has seldom if ever taken away a license for failure to do so. Its commitment to this principal has followed a consistent pattern from its earliest days to the present.

The F.C.C. is presently considering changes in the license renewal process that would utilize the percentage of prime time, public affairs programs in deciding whether a license should be renewed. The F.C.C. has stated many times the desirability of having public affairs programs aired at a time when they would contribute significantly to an informed public.

The Federal Communications Commission is proposing a series of minimum programming requirements consistent with the "public interest standard" and the concept of "substantial service." The Commission proposed that each station devote 3% of prime time (or about a hour a week) to public affairs programming. In commenting on this standard the Commission stated, "we do not believe our proposal to be unrealistic, because in each of these categories substantial numbers of broadcasters are meeting the proposed guidelines."

The Proposal

Unfortunately, while the F.C.C. has often expressed its awareness of a need for action it has never acted. That is why we the people must take action on our own. What we propose is that:

(1) Each television station must provide one hour per week of regularly scheduled, prime time, locally-originated, public affairs programming;

(2) Each of the three major networks must provide one hour per week of regularly scheduled, prime time, public affairs programming; and

(3) Each network affiliate not wishing to carry the network offering must provide a second hour of prime time, public affairs programming from some other source (local or syndicated).

Conclusion

Broadcasters use the public airwaves to earn an annual return of nearly 100% on depreciated capital. The public has asked very little in exchange.

What we do ask [illegible] one hour per week for the dialogue necessary to sustain our democracy.

We deserve to be informed about our nation's problems of inflation, recession, unemployment, environmental protection, the supply of energy, world security--and dozens of others.

We want to hear from our candidates for office without having to contribute millions of dollars to buy television time.

We want to begin our nation's third century with a modern-day commitment to the First Amendment ideals of the Founding Fathers.

We seek no less than one hour of prime time, public affairs programming a week as a minimum component of a broadcaster's service in the "public interest."

What You Can Do

We think this idea is important enough that we would like to urge you to think about it and then, if you agree, add your name to the list of prestigious organizations endorsing it.

The Federal Communications Commission, which is supposed to regulate such matters, doesn't. So the National Citizens Committee for Broadcasting, 1346 Connecticut Avenue, Washington, D.C. 20036, is coordinating this effort of citizens organizations that will address broadcasters directly.

Please write the NCCB indicating your support of this idea, or, if you desire, asking for more information.

ENDORSEMENTS FOR PUBLIC AFFAIRS PROGRAMMING PROJECT

Organizations

Agribusiness Accountability Project
American Consumer's Association
American Indian Community House Inc.
Americans for Democratic Action
Americans for Indian Opportunity
Arkansas Consumer Research
Artists Equity Assoc., Northern California
Asian Americans for Fair Media
Association for Voluntary Sterilization
Black Citizens for Fair Media
Black Women Organized
Center for Science in the Public
Chinese for Affirmative Action
Classical Music Supporters, Inc.
Colorado Public Interest Researc
Committee for Open Media
Community Coalition for Media Ch
Community Involvement Co-op
Consumer Action--San Francisco
Consumer Center (Ft. Wayne, Indi
Consumer Education and Protectiv
Consumer Federation of America
Consumer H-E-L-P
Continental Association of Funer
Council on Children, Merchandisi
Environmental Defense Fund
Environmental Interchange
Foundation to Improve Television
Friends of Animals
Friends of the Earth
Gay Artist and Writers Kollectiv
Gay Community Center, Seattle
Gay and Women's Alliance for Res
Insight Exchange, Inc.
International Union of Operating
International Union, United Auto
Iowa Consumers League
League Insurance Group
League of Women Voters
League of Women Voters of Arkans
Maryland Citizen's Consumer Coun
Media Alliance
Missouri Public Interest Researc
National Association for the Adv
(NAACP)
NAACP Media Committee-Pgh.
National Black Media Coalition
National Conference of Parents a
National Congress of Indians
National Consumer's League
National Council of Churches (Co
National Council of Jewish Women
National Council of La Raza
National Council of Senior Citiz
National Education Association
National Federation of Community
National Ladies Auxiliary, Jewis
National Urban Coalition
National Urban League (Washingto
Negative Population Growth, Inc.
New York Consumer Assembly
New York Public Interest Researc

North American Students Co-operative Association
North Carolina Consumers Council, Inc.
North Carolina State AFL-CIO
Oakland Media
Oil, Atomic and Chemical Workers (Tony Mazzochi)
Oregon Consumer League
Pennsylvania League for Consumer Protection
Planned Parenthood of New York City
Public Advocates Inc.
Public Media Center
South Dakota Consumer's League
St. Louis Consumer Federation
Tactical Media Team
The Fund for Constitutional Government
The Mattachine Society, Inc.
Union Label and Service Trade Dept., (AFL-CIO)
Westinghouse Broadcasting Co., Inc.
Women's Equity Action League
Women's Institute for Freedom of the Press
Zero Population Growth

Individuals

Thomas Brooks, Consumer Economist
The Hon. George Brunn--Berkeley, CA
Harvey Im. Greisman, Advisory Council CTS
David Honig, Asst. Prof. Communications--Howard University
Peter Kane--Editor, Free Speech
Charles F. Lamb--Regional Minister Christian Church
Esther Shapiro, Director, Consumer Affairs, Detroit
Stephen Schlossberg Gen. Counsel--UAW
Ted Williams, Pres. Bell Industries
Prof. Paul Verkuile, UNC Law School, Chapel Hill, NC.

FIRST AMENDMENT RIGHTS

Hon. Elizabeth Holtzman of New York in the House of Representatives, Friday, April 2, 1976:

Ms. Holtzman. Mr. Speaker, the Authors League of America calls our attention to a particularly flagrant example of a retrogressive trend on the part of Government agencies to abridge first amendment rights, including the right to learn through literature viewpoints with which we may disagree. I commend to you their letter of protest against a New York school district's book-banning order.

The text follows:

The Authors League of America, Inc.
New York, N.Y. March 29, 1976
Hon. Ewald B. Nyquist
Commissioner of Education,
State Education Building
Albany, N.Y.

[Continued on p. 13]

NEW LIBEL RULING CITED ON COAST

Superior Court Judge Thomas W. LeSage has dismissed libel charges brought against Penthouse magazine and two freelance writers by two men whose names have been linked to organized crime.

But, citing changed standards of libel law imposed by a recent Supreme Court decision, the judge held that charges brought by two other men and a corporation in what may be the largest libel suit in the nation's history must go to trial.

Judge LeSage held this week that Morris B. Dalitz and Allard Roen were public figures in a legal sense and had failed to show that Penthouse and writers Jeff Gerth and Lowell Bergman had displayed malice in an article that described the two men's role in development of a Southern California real estate-resort development called Rancho LaCosta.

However, referring to a March 2 Supreme Court ruling that narrowed the legal definition of public figures in libel actions, Judge LeSage said there were triable issues to resolve in the case of two other plaintiffs, Mervyn Adelson and Irwin Molasky, two other officers of LaCosta, and the LaCosta Corporation.

The four men and the corporation had sought a total of $630 million in damages from the magazine, contending that an article in Penthouse a year ago inaccurately and maliciously described LaCosta as a haven for criminal figures. The development was substantially financed by a loan from the Central States Pension Fund of the International Brotherhood of Teamsters. The plaintiffs alleged the adverse publicity had hurt land sales and other operations at the facility.

Judge LeSage, citing a large number of articles about alleged criminal activities of Mr. Dalitz and Mr. Roen, said there was no doubt that they were public figures, and that their attorneys had not demonstrated willful malice or reckless disregard for the truth in writing about them.

However, referring to the corporation itself and Mr. Adelson and Mr. Molasky, Judge LeSage said triable issues arose from "the juxtaposition of firearms and graphics accompanying the Penthouse article," and the narrower definition of a public figure established by the high court in a case involving Time magazine and Mary Firestone, an heiress. Miss Firestone was granted a libel judgement against Time because she said it had printed inaccurate details about a divorce.

The New York Times, April 11, 1976, Sec. 1, p. 34.

"First Amendment Rights"

Dear Commissioner Nyquist: The Board of the Island Trees School District has removed from its Junior and Senior High School Libraries several books, including "The Fixer" by bernard Malamud, "Laughing Boy" by Oliver LaFarge, "The Naked Ape" by Desmond Morris, "Down These Mean Streets" by Piri Thomas and "Black Boy" by Richard Wright. This action sets a sad example for New York school students of fear of the printed word, intolerance and a total disregard for the First Amendment. It is incredible that adults entrusted with administering a school district in New York could engage in such an act of bookbanning.

The Board obviously is incapable of understanding that the freedoms to read and to teach were guaranteed by the First Amendment to prevent government officials from suppressing books of which they disapprove. If these valuable works, two of them Pulitzer Prize winners, can be banned by a majority of the Island Trees Board at this time, so can the next book which offends that majority, and the next, and the next. And when a new majority with other political or literary predilections supplants them,it could purge the District's library shelves of those books which it finds repugnant.

The selection of books for school libraries should be the responsibility of the District's professional librarians and teachers. If school board members can override these professional judgments because of their political or social views, or "literary tastes," then freedom to read and teach are in serious danger.

The Authors League urges that the Department of Education adopt regulations to protect these essential freedoms against such censorship. School boards should not be permitted to remove books from libraries or reading lists without a public hearing. Adequate notice should be required and defenders of the book given full opportunity to speak on its behalf. The School Board's decision should be in writing, setting forth the specific educational reasons which the Board contends justify removal or banning of the book. Professional personnel or residents of the school district should be permitted to appeal book-banning orders directly to the Commissioner of Education, with a minimum of delay.

Since more than fifty years have passed since the Scopes Trial, it is time for New York to adopt adequate safeguards to guarantee for teachers and students the constitutional freedoms for which Clarence Darrow and Arthur Garfield Hays fought so gallantly.

Sincerely yours, Irwin Karp.

Congressional Record, April 2, 1976, p. E 1776.

PRETRIAL "GAG" SEEN JUSTIFIED AT TIMES

by John P. MacKenzie

Judicial orders restricting news reports about pending criminal cases are justified when there is no other way to safeguard the defendant's right to a fair trial, the Supreme Court has been told.

Lawyers defending pretrial "gag" orders in a Nebraska murder case argued that although court injunctions against news reporting are undesirable, they are not always unconstitutional.

Specifically, the lawyers said, the orders restraining news stories about confessions and other incriminating evidence, issued before the trial of Erwin C. Simants on six murder charges, did not violate the First Amendment.

Legal briefs supporting pretrial rulings by District Judge Hugh Stuart in North Platte, Neb., were filed this week by lawyers for Simants, for the judge and for the Lincoln County prosecutors.

Briefs for the Nebraska Press Association and other news organizations, protesting the restraints as infringements on press freedoms, were filed last month. Oral arguments in the case, a major test of free press and fair trial principles, will be held in April with a decision expected by June.

The most recent briefs contended that the press restraint was the only method available to Judge Stuart in light of massive coverage and fear of community prejudice against Simants, 30, an unemployed farmhand whose trial resulted Jan. 17 in six guilty verdicts and a death sentence.

Prosecutors Milton R. Larson and John P. Murphy, in a brief signed also by former U.S. Solicitor General Erwin N. Griswold, acknowledged that American legal tradition placed a heavy burden on proposals to restrain the press in advance of publication, as contrasted with subsequent punishment after publication.

"Prior restraints on publication and dissemination of news are properly abhorred and should be avoided if reasonable alternatives exist," the prosecutors said.

But they added that "when absolutely necessary, a limited restrictive order on publicity . . . is a step which should be taken by a responsible trial judge."

News organizations have argued that gag rulings, rarely invoked and usually restricted to reports that would endanger national security, may not be applied to news stories about criminal cases,especially when the stories concern events that have taken place in open court.

The New York Times, March 13, 1976, p. A4.

FREEDOM OF SPEECH COMMISSION

With action by the Executive Committee of the Speech Communication Association, William I. Gordon of Kent State University (Kent, Ohio 44240) has been named the new Chairperson of the Freedom of Speech Commission replacing Tom Tedford, whose three-year term as Chairperson has been completed.

New Freedom of Speech Yearbook Editor, Gregg Phifer (Florida State University, Tallahassee, Florida 32303) has issued a general call for manuscripts for consideration for inclusion in the 1976 issue of the Yearbook. Two copies of typed manuscripts consistent with The M.A Style Sheet (second edition) should be sent directly to Professor Phifer at the above address.

Professor Ruth McCaffey (University of Wisconsin-Milwaukee, Milwaukee, Wisconsin 53201) will begin her three-year term as Editor of Free Speech with the next issue of this newsletter. Editorial correspondence should be sent directly to her.

Outgoing Commission Chairman Tom Tedford has appointed an ad hoc committee to study what programs, if any, of the dissolved Commission on Communication Rights should be assumed by the Freedom of Speech Commission. The Chairperson is Dan Chandler (Box 511, FDR Station, New York, New York 10022) with members Stan Harms and Wayne Minnick. Chairperson Chandler is asking for thoughts and comments from FS readers.

Three programs have been planned by the Commission for the SCA San Francisco convention in December 1976. They are 1) Promoting Freedom of Speech: A Work Shop for State, Regional and National Development (Wynn Allen, Ambassador College, Pasadena, California 91105, Chairperson), 2) Contributions from Religious Heresy to First Amendment Freedoms (Dan Chandler, Baruch College, SUNY), and 3) Parliamentary Law and Freedom of Speech (Bill Gorden, Kent State). Persons interested in participating in these programs should write directly to the designated Chairperson.

John F. Wilson (Department of Speech & Theatre, Herbert H. Lehman College, CUNY, Bronx, New York 10468) is seeking program suggestions for the 1977 Eastern Communication Association Convention to be held in New York City next March. Anyone interested in developing or participating in a freedom of speech program should contact Professor Wilson as soon as possible.